

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BILL VAL VASQUEZ,

Plaintiff,

vs.

No. CV 18-00775 WJ/LF

BETTY JUDD, R. VALENCIA,
CHIEF RANKINS, MS. JULESON,
MR. ALAN, MS. JIMS, MS. JAY-JAY,
AND ALL OTHER SUPPORT STAFF,
CASE MANAGERS, SECURITY STAFF,
ECT CEDERRA (sic),

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court under Fed. R. Civ. P. 41(b) on the Prisoner's Civil Rights Complaint filed by Plaintiff Bill Val Vasquez. (Doc. 1). The Court will dismiss the Complaint without prejudice for failure to comply with 28 U.S.C. §§ 1914 and 1915, failure to comply with Court orders, and failure to prosecute this case.

Plaintiff, Bill Val Vasquez, filed this civil rights proceeding under 42 U.S.C. § 1983 on August 13, 2018. (Doc. 1). Plaintiff did not pay the \$400.00 filing fee or submit an application to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915. On August 15, 2018, the Court ordered Plaintiff to cure this deficiency within 30 days by either paying the \$400.00 filing fee or submitting an application to proceed *in forma pauperis*. (Doc. 2). The Order advised Plaintiff that, if he failed to cure the deficiency within the 30-day time period, the Court could dismiss this proceeding without further notice. (Doc. 2 at 1). The Court also sent Plaintiff the forms for submitting an application under § 1915. (Doc. 2 at 2). More than 30 days elapsed after entry

of the Court's Order to Cure Deficiency and Plaintiff did not pay the \$400 filing fee, submit an application to proceed under § 1915, or otherwise respond to the Court's August 15, 2018 Order.

On November 30, 2018, the Court entered an Order to Show Cause. (Doc. 16). The Order directed Plaintiff Vasquez to show cause within 21 days why the case should not be dismissed for failure to comply with the Court's August 15, 2018 Order. (Doc. 4 at 2). More than 21 days has elapsed and Plaintiff Vasquez has not paid the \$400 filing fee, submitted an application to proceed *in forma pauperis*, shown cause, or otherwise responded to the Court's November 30, 2018 Order.¹


Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required collect the federal filing fee from the Plaintiff or authorize Plaintiff to proceed without prepayment of the fee. Plaintiff has failed to either pay the \$400.00 filing fee or submit an application to proceed under § 1915. The Court ordered Vasquez to either pay the filing fee or submit an application to proceed under § 1915. The Court also provided with the § 1915 application form. (Doc. 2). Vasquez did not pay the fee, file an application to proceed, or even respond to the Court's Order. The Court then ordered Vasquez to show cause why the case should not be dismissed for failure to comply with the Court's Order. (Doc. 16). Vasquez did not show cause or even respond to the Court. Vasquez has failed to comply with the requirements of 28 U.S.C. §§ 1914 and 1915, with the Court's August 15, 2018 Order to Cure Deficiency, and with the Court's November 30, 2018 Order to Show Cause.

The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the statutes or rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Therefore, the Court will dismiss this civil

¹ The Court takes judicial notice that Plaintiff Vasquez engaged in an identical pattern of failing and refusing to comply with the Court's orders to pay the filing fee or submit an application to proceed *in forma pauperis* in case No. CV 17-01257 JCH/GJF, resulting in dismissal of that case. *Duhart v. Carlson*, 469 F.2d 471, 473 (10th Cir. 1972).

proceeding pursuant to Rule 41(b) for failure to comply with 28 U.S.C. §§ 1914, 1915, failure to comply with the Court's Orders of August 15, 2018 and November 30, 2018, and failure to prosecute this proceeding.

IT IS ORDERED that the Prisoner's Civil Rights Complaint filed by Plaintiff Bill Val Vasquez on August 13, 2018 (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute or to comply with 28 U.S.C. §§ 1914 and 1915 and with the Court's August 15, 2018 and November 30, 2018 Orders.



CHIEF UNITED STATES DISTRICT JUDGE